

RAIL INDUSTRIAL ACCESS PROGRAM



APPLICATION GUIDANCE & PROCEDURES FY 2011

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Introduction

Purpose

The General Assembly of Virginia as enacted under Section 33.1-221.1:1 of the Code of Virginia declared its purpose for the Industrial Access Railroad Tracks Program. The General Assembly declares it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial buildings or facilities.

State Policy:

The Commonwealth Transportation Board on November 16, 1995 passed a resolution for the use of Industrial Access Railroad Tracks Program to provide funding which is intended to be used as an incentive to encourage industrial or commercial development in the Commonwealth of Virginia. It is not intended to fund projects that will not have a significant economic impact.

Program Contact

Questions related to the Industrial Access Railroad Tracks Program should be directed to the Department of Rail and Public Transportation at the following address, phone and fax numbers.

Kevin B. Page, Chief of Rail Transportation
Virginia Department of Rail and Public Transportation
600 East Main Street, Suite 2102
Richmond, Virginia 23219

Telephone (804) 786-3963
Fax (804) 225-3752
email: kevin.page@drpt.virginia.gov

or

Jeremy Latimer, Manager of Rail Industrial Access Programs
Virginia Department of Rail and Public Transportation
600 East Main Street, Suite 2102
Richmond, Virginia 23219

Telephone (804) 225-4016
Fax (804) 225-3752
Email: Jeremy.latimer@drpt.virginia.gov

Program Administration

Administrative Responsibility

The Industrial Access Railroad Track program is administered by the Director of the Department of Rail and Public Transportation (DRPT) in accordance with decisions of the Commonwealth Transportation Board. The Director may consult with the Commissioner of Agriculture and Consumer Services, the Director of the Office of Business Assistance, and the Director of the Economic Development Partnership (or their designated representatives) concerning applications for funds in accordance with the Code of Virginia. The DRPT staff will receive and process applications, make recommendations to the Commonwealth Transportation Board, supervise the program, and approve for payment the costs incurred and invoiced by the Grantee.

Send Applications to:

**Director
Virginia Department of Rail and Public Transportation
600 East Main Street, Suite 2102
P.O. Box 590
Richmond, Virginia 23219**

Eligible Recipients

The following organizations are eligible to apply for Industrial Access Railroad Track funding:

1. Business, Commercial, or Industrial Enterprises
2. Municipal and County Governments acting on behalf of a Business, Commercial or Industrial enterprises
3. Local Departments of Economic Development acting on behalf of Enterprises
4. Railroads

All applications for industrial access railroad track funds shall be discussed with the appropriate local government. Each application shall be accompanied by a resolution from the local governing body requesting that such funds be allocated to the proposed project from the Industrial Access Railroad Track Program. The Industrial Access Railroad Track Program is coordinated with the Economic Development Partnership or the Office of Business Assistance. This coordination effort is reflected in the project selection criteria point system.

Eligible Costs

Eligible project cost includes the following:

1. Engineering
2. Site Preparation (including grading and drainage)
3. Track Construction
4. Track Reconstruction
5. Track Improvement
6. Environmental Mitigation

Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existing or prospective, for single industries or industrial subdivisions under firm contract or already constructed, including those subdivisions owned or promoted by railroad companies and others.

Ineligible Costs

Ineligible project cost includes the following:

1. Relocation of Utilities
2. Switches and track to clear point connecting the access track to the main line
3. Acquisition of Right-Of-Way
4. Operation and Maintenance
5. Rail less than 115 lbs/yrd
6. Work begun prior to a Notice to Proceed from DRPT, unless the Grantee was issued a Letter of No Prejudice.

If the total project costs exceed the available funds for a specific project, the expenditures will be approved in the following priority order: 1) track materials, 2) installation, 3) engineering, 4) drainage, 5) grading, 6) environmental mitigation. Eligible items of construction shall be limited to those items necessary to provide adequate and safe rail service between the clear point and the industry being served.

Allocation of Funds

No more than \$300,000 of unmatched funds may be allocated to any project in any fiscal year. Any funds in excess of \$300,000 shall be matched dollar-for-dollar by the recipient or from other non-program sources.

The amount of industrial access railroad track funds allocated to a project shall be limited to 15% of the capital outlay of the designated business, with no more than \$450,000 in matched and unmatched funds allocated to any one county, city, or town. The 15% limitation and the maximums on matched or unmatched funding may be waived at the discretion of the Commonwealth Transportation Board (CTB).

Industrial Access Railroad Funding Limits

Total Project Capital Costs	Maximum Grant Funds Unmatched	Maximum Additional Grant Funds with Match	Total Grant Funds Available for a Project
\$ 1,000,000	\$ 150,000	-	\$ 150,000
\$ 2,000,000	\$ 300,000	-	\$ 300,000
\$3,000,000+	\$ 300,000	\$ 150,000	\$ 450,000

The CTB may consider a supplementary allocation to any project, provided such supplementary allocation does not exceed the established funding limitation for the project. The Director shall have the authority to increase the allocation to any project by 10 percent due to unanticipated problems provided such increases do not exceed the funding limitation for the project.

The CTB shall, in the evaluation of projects, consider the cost of construction of an access track in relation to the prospective volume of rail traffic, capital investment, potential employment, or other economic and public benefits.

Expending Committed Funds

Committed industrial access railroad track funds are those funds allocated to a project but not necessarily spent in the year of allocation. Committed funds shall be expended within 24 months of the date of CTB allocation.

Grantees can request a time extension in writing to DRPT, which will be subject to approval by the Director.

Performance and the Commonwealth's Contingent Interest Ownership

Performance criteria shall be part of the Agreement upon grant award to preserve the public benefit gained through investment of public dollars. Upon project completion, Performance shall be reported annually on a fiscal year schedule beginning July 1 following the date of project acceptance by the Department. The Applicant/Designated Grantee shall submit Performance criteria on Employment and Annual Carloads:

- Employment Performance counts those full time positions obtained as a result of the construction or expansion of the Applicants facility and the proposed tracks funded through the Rail Industrial Access Grant program. Employment is reported to the Department for the first two and must be met in the second year of Performance.
- Annual Carload Performance counts the carloads run over the track improvements funded through the Rail Industrial Access Grant program. The Annual Carloads specified in the Application and the Agreement must be reached within 5 years of Performance. Within five years shall mean the Grantee has satisfied the requirement if the Annual Carload target is reached in any of Performance years 1, 2, 3, 4, or 5.

The Applicant/Designated Grantee shall be contractually committed to providing the Commonwealth with a Contingent Interest in that portion of trackage and facilities constructed or improved with the use of Industrial Access Railroad Track funds, Retained interest of the Commonwealth in grant funded rail access shall be 15 years, coinciding with the start of the Performance Period. Annual Carload Performance will be reported by the Grantee to the Department for 5 years.

Failure to meet Performance requirements shall result in reimbursement of the value of improvements for which the Commonwealth retains a Contingent Interest Ownership.

As part of retaining the Commonwealth's Contingent Interest, the access railroad track shall be made available for use by all common carriers using the railway system to which they connect. A certification issued by the landowner or using business must state that they will provide for the continuous maintenance and assume the liability of the tracks and facilities.

Guarantees as to the right of way and adjustment of utilities, to include their source of donation or funding shall be given by the landowner or using business.

Any cost involved in any subsequent relocation or removal of industrial access railroad track facilities shall be borne by the landowner, using business or developer. Following relocation, the Commonwealth's interest will be redefined. In case of removal, the Commonwealth will be reimbursed the value of the facilities in which it has an Interest.

Purchasing or Selling Industrial Access Tracks

The Commonwealth may, at its option, allow the industry, using business, or developer, to purchase the Commonwealth's Interest in an industrial access railroad track facility at a value determined by the Director. In the event the landowner, using business, or developer desires to sell their property or interest on which access tracks have been constructed under this program, said sale will be subject to the Commonwealth's Contingent Interest and written approval.

Industry Certifications and Repayment

The Grantee will be required to repay the Department its contribution to the cost of the construction and materials, less depreciation, if the project tracks are abandoned, relocated or sold (without a grant assignment).

The Grantee shall certify that it will provide the Employment and the rail traffic (Annual Carloads) indicated in the project application. Employment level and Annual Carloads will be defined in the Agreement.

The Grantee will be required to repay the Department its contribution to the cost of the access track if:

1. Employment Performance commitment for the first two years falls significantly below the commitment levels specified to qualify the applicant for funding
2. Annual Carloads for the first five years is significantly below the commitment levels specified to qualify the Applicant for funding.

3. Rail use is no longer for its intended purpose, or is not used. For the Departments contingent interest in materials for years 6 – 15 of Performance, a pro-rated amount is determined per the terms of the Agreement.

Account Records, Reports

The Grantee shall establish and maintain separate accounts for the project. The Grantee and its subcontractors shall retain all records pertaining to this project for three years from the date of the final payment from the DRPT.

Payment

The Grantee shall submit copies of the paid invoices together as ONE reimbursement request as soon after project completion as possible. Included with the invoice will be a certification of the overall capital investment by the Grantee (Attachment D in the Agreement). The request for payment must be within the twenty-four month contract period for expending funds (beginning from the date of the Commonwealth Transportation Board's approval of the Project). The Director may extend the contract period due to extenuating circumstances upon receipt of a written request.

Once the Department has received notice that the project is complete it shall perform a field review of the Work before final audit and payment. The field review and inspection shall be done as quickly as time permits, but no later than 60 days from receiving the notice that the project has been completed.

Only work specified in an executed Agreement between DRPT and the Grantee is eligible for reimbursement. Work begun prior to a Notice to Proceed from DRPT will not be approved for reimbursement unless the Department issued a Letter of No Prejudice.

Project Selection and Implementation

The Department of Rail and Public Transportation will assemble all necessary data and documents and review the proposals. Using the procedures outlined, the Department will develop recommendations. These recommendations will be provided to the Director who will present recommendations to the Commonwealth Transportation Board. The CTB will establish priorities and allocate funds for selected projects.

Following the decision of the CTB on project funding, the applicants will be notified of the results via an Award or Rejection letter. Successful applicants will enter into the contractual commitments required under Item 5 of the Industrial Access Railroad Track Policy pertaining to responsibility for maintenance, liability, relocation, and removal.

For projects involving the reconstruction or improvement of existing tracks or facilities, only those materials installed with the use of Industrial Access Railroad Track funds shall become subject to the contingent interest requirements of the Commonwealth. Ownership of materials and facilities in place prior to project implementation shall remain with the original owner.

Appendix A

Project Selection Criteria Point System

Project Selection Criteria Point System

Under 50 will not be recommended to the CTB

1. Total Number of Carloads (Annually)

501 or greater	20 points
401 to 500	17 points
301 to 400	14 points
201 to 300	11 points
101 to 200	8 points
100 or less	5 points

2. Added Employment

101 or greater	20 points
76 to 100	17 points
51 to 75	14 points
26 to 50	11 points
25 or less	8 points

3. Commonwealth's Portion of Track Construction per Initial Capital Investment Cost

0.03 or less	10 points
0.04 to 0.06	8 points
0.07 to 0.10	6 points
0.11 to 0.14	4 points
0.15	2 points

4. Jurisdictional Unemployment Rate (Statewide Unemployment Rate [R])

(R + 2.5) or greater	20 points
(R + 2.0) to (R + 2.4)	17 points
(R + 1.5) to (R + 1.9)	14 points
(R + 1.0) to (R + 1.4)	11 points
(R + .9) or less	8 points

5. Project included by Virginia
Economic Development Partnership
or the Virginia Department of Business
Assistance as part of initiatives to bring or
expand industry in Virginia.

	10 points
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| 6. | Non-State Contributions to Track Construction | |
| | 41% or greater | 10 points |
| | 31% to 40% | 8 points |
| | 21% to 30% | 6 points |
| | 11% to 20% | 4 points |
| | 10% or less | 2 points |
| 7. | Contributes to the long term
viability of a Shortline | 10 points |

Notes: Any applicant receiving less than 50 points will not receive a favorable recommendation from the staff unless there are extenuating circumstances.

Use unemployment data for the latest available period.